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WTO FINDS U.S. TRADE DAMAGED BY EU BEEF IMPORT BAN

WTO arbitrators found today that the European Union's ban on U.S. beef and beef products has resulted in lost annual U.S. exports of beef to the EU in the amount of 116.8 million. The EU's ban, which covers beef and beef products from animals treated with growth hormones, was previously found to be unjustified under WTO rules. Decades of scientific research -- by both U.S. food safety regulators and international bodies such as the World Health Organization -- have proven the safety of the growth hormones used in U.S. beef production.

"The arbitrator's decision today confirms that under WTO rules, the EU must pay a price for failing to comply with its WTO obligations," said United States Trade Representative Charlene Barshefsky. "The EU's WTO-inconsistent ban on U.S. beef is harming U.S. farmers and processors, and is denying EU consumers access to the world's highest quality beef. The EU must understand that as a result of its failure to comply with its WTO obligations, the United States will act firmly and swiftly under its WTO rights to sharply raise tariffs on imports from the EU in an amount equivalent to the trade damage. Despite taking this action, the United States remains willing -- as it always has been -- to negotiate a resolution of the issue with the EU."

Ambassador Barshefsky further stated that "This is the second time in the last few months that we have had to exercise our WTO rights to raise tariffs on EU goods. First in the bananas case, and now in the beef hormones case, the EU has refused to comply with its WTO obligations, even after WTO dispute settlement resulted in formal findings that EU actions were WTO-inconsistent. I would urge the EU to reconsider its damaging actions and to demonstrate a real commitment to the rules-based multilateral trading system."

Pursuant to the arbitrators' decision, the United States will exercise its WTO rights by imposing 100 percent tariffs on a list of EU products with an annual trade value of 116.8 million. The list of products and other details regarding the tariff increases will be announced in the near future.

Background

This trade dispute over the EU's beef policies dates back to the 1980s. In December 1985, the EU adopted a directive on livestock production restricting the use of natural hormones to therapeutic purposes, banning the use of synthetic hormones, and prohibiting imports of animals, and meat from animals, to which hormones had been administered. The EU adopted this policy even though the safety of consuming beef from cattle treated with certain hormones has been thoroughly researched since the 1950s. On all occasions of FDA testing, the six hormones subject to this trade dispute have always been found to be safe. The clear international scientific consensus is that these approved and licensed products are safe when used in accordance with good veterinary practices. Even the EU's own scientists have agreed with these findings. At present, U.S. beef is shipped to 138 countries.

That EU's 1985 directive was later declared invalid by the European Court of Justice on procedural grounds and had to be re-adopted by the Council, unchanged, in 1988 ("the Hormone Directive"). These measures became effective January 1, 1989, notwithstanding U.S. attempts to resolve this issue bilaterally and multilaterally, including through dispute settlement under the General Agreement on Tariffs and Trade (GATT).

On December 24, 1987, the President of the United States announced an increase in duties on selected European products in response to the Hormone Directive and related measures, but immediately suspended this action to promote a negotiated solution of the issue. The USTR enacted the increase in duties in January 1989 when the EU began implementing the hormone ban against imports from the United States. The USTR subsequently modified the application of increased duties on a number of occasions. During the early 1990s, the United States continued to encourage resolution of this dispute and worked in the FAO/WHO Codex Alimentarius to develop principles that reinforce the pre-eminent role of science in establishing high food safety standards.

Following entry into force of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement") on January 1, 1995, the United States and, later, Canada, proceeded with formal WTO dispute settlement procedures against the hormone ban. On May 20, 1996, the WTO's Dispute Settlement Body ("DSB") established a dispute settlement panel ("the WTO panel") to examine the consistency of the EU's hormone ban with the its WTO obligations. (Prior to the establishment of the WTO panel, the EU replaced the Hormone Directive with another directive that re-codified and expanded the hormone ban.)

On August 18, 1997, the WTO panel issued its report, finding that the hormone ban is not based on scientific evidence, a risk assessment, or relevant international standards in contravention of the EU's obligations under the SPS Agreement. The Appellate Body issued its report on January 16, 1998 affirming that the hormone ban is not consistent with the EU's obligations under the SPS Agreement. On February 13, 1998 meeting, the DSB adopted the Panel and Appellate Body reports on hormones.

The EU subsequently requested four years to implement the DSB recommendations and rulings. An Arbitrator determined that the reasonable period of time for implementation was fifteen months, and would expire on May 13, 1999.

The EU took no actions to implement the DSB recommendations and rulings by the May 13, 1999 deadline. Accordingly, on May 17, 1999, the United States exercised its WTO rights by requesting authorization to suspend tariff concessions on EU goods with an annual trade value equivalent to

annual lost exports of U.S. beef, estimated by the United States as equal to \$202 million. The EU requested arbitration over the amount of lost U.S. beef exports, arguing that the arbitrators should accept the EU's estimate of \$53 million.

The arbitrators issued their report within the time provided under WTO rules, which is 60 days after the May 13, 1999 end of the implementation period.

In addition to determining the level of annual lost U.S. exports of beef to the EU, the arbitrators addressed a procedural claim made by the EU. The EU had argued that the arbitration procedure should include an additional, second stage, in which the arbitrator would evaluate the U.S. list of products subject to higher tariffs. The United States pointed out that such a procedure would be inconsistent with WTO rules and would improperly delay the completion of the arbitration. The arbitrators rejected the EU's procedural argument.

